

REMARKS

In the outstanding Office Action at the top of page 2, the Examiner has rejected canceled claim 1 and has stated that it is the rejection of the prior office action which is being maintained. It is also believed that this very same rejected has been repeated at page 8 beginning at line 9 and continuing through page 9, line 16.

Claim 12

The prior art rejection under 35 USC § 103(a) was withdrawn as to claim 12 at page 3, line 7 - 9. However, claim 12 was once again subjected to a rejection at page 3, line 12 through line 20 because Applicant had used the term "or aqueous components". This rejection is believed to be based upon Hockmeyer. Applicant believes that the allowance of claim 12 in lines 7 - 9 is correct.

Claim 12 also was rejected under 35 USC § 112 at page 10, line 4 because the Applicant used the term "or aqueous components" Applicant respectfully traverses this rejection of claim 12 because claim 12 intentionally recites oil components or aqueous components. The novelty in claim 12, as recognized by the Examiner is in the elements of the batch-agitating mill. Applicant has claimed that this particular mill can be used with oil components or aqueous components in the step of dispersing powder as claimed. It is, therefore, respectfully submitted that the rejection of claim 12 and, hence, claims 13 and 14 should be withdrawn. The

Office Action at page 6, lines 5 - 7 in fact withdraws the rejection.

The Examiner should note that claim 12 does not discuss emulsion or hydrophobicity as the Examiner does in the 35 USC § 112 rejection at page 10, line 4 - 10. Stated another way, Applicant has claimed dispersion of the particles into oil or aqueous components, not what the Examiner seems to deem unclear.

Claim 15

Claim 15 has been rejected under 35 USC § 112 at page 10, lines 4 - 10 because it contains the words "or aqueous components". Applicant has now deleted the term "or aqueous components". This is believed to overcome the rejection under 35 USC § 112.

Claim 15 has also been rejected under 35 USC § 103 at page 3 in the paragraph beginning at line 10. The rejection is based upon the fact that claim 15 included the words "or aqueous components" thereby allowing it to read on an aqueous type solution. Since the term "or aqueous components" has been deleted, it is respectfully submitted that the rejection at page 3, lines 10 - 20 should be withdrawn.

Claim 16

Claim 16 depends from claim 15. Claim 16 is now allowable (page 6, line 14). Claim 16 has been rewritten in independent form.

Claim 8

Claim 8 which recites percentages has been rejected at page 4 beginning at line 15 on the basis that Sunstar teaches combining 1

- 40% of a composite powder to make emulsified cosmetics. However, claim 8 not only requires a powder, but also requires a coating agent and oil components. Claim 8 requires powder of 60 to 97% by weight, a particle coating agent of 1 to 20% by weight, and an oil component of 2 to 30% by weight. Although the Examiner did not discuss it, the Sunstar reference at paragraph 0012 gives a weight percentage of a surface treating agent, and at paragraph 0015 gives powder weight percentages and oil foundation or oily formulation of 1 - 20%. It is believed that the Examiner is correct here.

Claims 2, 7, 12, 15, 17, 25 and 30

At page 3 of the Office Action, beginning at line 10 and continuing through line 20, the Examiner has rejected claims 2, 7, 12, 15, 17, 25 and 30 on the grounds that the aqueous component would be disclosed by Hockmeyer wherein an apparatus is disclosed that is capable of dispersing a powder to a solvent. Applicant respectfully traverses this observation. Hockmeyer disperses particles into a liquid, Hockmeyer does not have a solvent which dissolves the particles (see Office Action, page 3, line 18). Instead, Hockmeyer has titanium dioxide particles or the like which are ground and premixed, or are dispersed within the liquid vehicle to produce a fully mixed batch. Hockmeyer does not dissolve, he disperses. Next, none of the claims refer to a solvent of the powder. Again the rejection is not understood and, therefore, respectfully traversed because the claims do not relate to the rejection.

At page 3, line 15, the Examiner states "thus, if powdered components are dispersed with aqueous components, the emulsion or hydrophobicity processes are not required as claimed instantly. This statement simply would not apply where the particles are themselves hydrophobic, such as particles coated with an oil or silicon as disclosed and as claimed in claim 2 where Applicant claims depositing oil components over the surface of a powder. Again, emulsion or hydrophobicity does not appear in all claims referred in this paragraph. Hydrophobicity is referred to in claim 7 with respect to the particle (hydrophobicity as now claimed). In claim 12, there is no hydrophobicity or emulsification. In claim 15 there is no hydrophobicity or emulsification. In claim 17 there is emulsification and the emulsification is by either oil into water or a aqueous component into another unnamed component which would form an emulsification. Applicant has claimed the emulsification of either oil components or aqueous components.

In allowable claim 18, Applicant has claimed a particle surface which is imparted with hydrophobicity. Applicant in claim 18 separately claims a hydrophobic dispersion medium which is neither the oil component or the aqueous component. This is the reason claim 18 has not been amended to delete the term "or aqueous component". In claim 19, applicant claims the hydrophobic dispersion medium in combination with an organically-denatured clay mineral dispersion. This combination of materials is not found in any of the references, and claim 19 is clearly patentable over the combination. It should be noted that the Examiner has not

discussed at all how claim 19 is suggested by Sunstar, Ishihara Sangyo Kaisha or much less Hockmeyer.

Claims 2 - 6

In the invention of these claims, the oil components are a binder and a solid powdery cosmetic product is manufactured. On the other hand, in Sunstar '713 oil components are surface treating agents and composite powders are manufactured. In Sunstar, to obtain composite powders with excellent dispersability, an oil component as a surface treating agent is used. If an oil component is used as a binder in the case of '713, the powders become lumps and dispersability becomes poor. Therefore, the oil components of the present invention are not used in the Sunstar '713 reference.

Claim 7 - 8

In the invention set forth in claim 7 and 8, grinding of hydrophobic powder components can be performed simultaneously using a media-agitating mill. On the other hand, in '193 Ishihara fine particle-titanium dioxide is dispersed into oil by a sand mill (powder components are ground in advance).

Claims 15 - 16

In Hockmeyer '751 there is described the art of "grinding solid components by a media mill and dispersing into a solid vehicle. It is possible that oil may comprise the liquid vehicle.

Also in Ishihara '193, there is taught dispersing and grinding titanium dioxide and silicone by a sand mill. In this process, dispersion in silicone is obtained, see Embodiment 4. For these reasons, claims 15 and 16 have been combined to yield independent

claim 16. Independent claim 16 has been indicated to be allowable if rewritten to overcome rejections under 35 USC § 112 second paragraph and to include limitations of the base claim (see page 10, Claim Objections).

Claim 17

There is no description of emulsifying with a media-mill in any of the references cited. The references do not describe "by emulsifying by a media-agitating mill, an emulsified cosmetic product having an excellent emulsion stability, and fine emulsion particle and a smooth creamy texture." Specifically, this is not found in the Hockmeyer '751 reference. Even if all references are combined, it cannot be said that the present invention is obvious because there is no motive to do the emulsification process with a media mill.

Claims 25 - 29

These claims are directed to cosmetic products according to claim 1. In the claimed invention there is a continuous emulsification by the media mill. In Sunstar '713, once the powdered components are dried, then they are emulsified by a conventional method. In Sunstar '713 the solvent needs to be volatilized and powder components need to be dried in order for the powder components to be hydrophobic. The hydrophobic process and emulsifying process cannot be done continuously in Sunstar '713. For these reasons, claims 25 - 29 are clearly patentable over the art relied upon.

Claims 18 - 24

These claims appear to be allowable as stated at lines 1 through 5, page 8 of the Office Action. Claims 18 - 24, however, are indicated as being allowable if rewritten to overcome rejections under 35 USC § 112 (see page 10, beginning at line 13). This rejection is based upon the Examiner's objection to the term "or aqueous components" as stated at page 10, line 5. This rejection is respectfully traversed with respect to claim 18. It is the powder which is dispersed into oil or aqueous components as stated. The dispersion of the powder into either component is not what makes the particle hydrophobic or imparts hydrophobicity to the particle in this claim. It is the media agitating mill which imparts hydrophobicity and it is done with the use of an organic denatured clay, a surfactant and a hydrophobic dispersion medium capable of dispersing and swelling. . . It is respectfully submitted that claim 18 is not indefinite and the rejection is respectfully traversed.

Claim 31

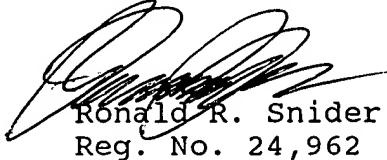
Claim 31 has been rewritten in independent form to include the limitations of original claim 30 absent the term "or aqueous components". It is believed that this now amended claim 31 overcomes the rejection under 35 USC § 112 and is, therefore, clearly allowable. The Office Action at page 1 indicates claim 31 is objected to and rejected. At page 10 it indicates that claim 31

is allowable. At page 8 it indicates claim 31 is rejected under 35 USC § 103. Applicant believes that the allowance was correct.

Claim 31 is for a lipstick (solid cosmetic product) while the Hockmeyer '751 and Ishihara '193 references are dispersions in oil without suggestion of a solidifying and followed by compaction molding.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



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